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ARCHWAY BROADWAY LOAN SPE, LLC

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA**

LOS ANGELES DIVISION

In re
SEATON INVESTMENTS, LLC, *et al.*,
Debtors and Debtors-in-Possession.

Lead Case No. 2:24-bk-12079-VZ

Jointly Administered with Case Nos.:

2:24-bk-12080-VZ; 2:24-bk-12081-VZ;
2:24-bk-12082-VZ; 2:24-bk-12091-VZ;
2:24-bk-12074-VZ; 2:24-bk-12075-VZ; and
2:24-bk-12076-VZ

Affects:

Chapter 11

- All Debtors
 - Seaton Investments, LLC
 - Colyton Investments, LLC
 - Broadway Avenue Investments, LLC
 - SLA Investments, LLC
 - Negev Investments, LLC
 - Alan Gomperts
 - Daniel Halevy
 - Susan Halevy

**OBJECTION BY ARCHWAY
BROADWAY LOAN SPE, LLC TO
SUPPLEMENT TO APPLICATION OF
INDIVIDUAL DEBTORS AND
DEBTORS-IN-POSSESSION TO EXPAND
SCOPE OF EMPLOYMENT
APPLICATION OF SAUL EWING LLP
AS GENERAL BANKRUPTCY COUNSEL**

[LBR 2014-1(b)(5)]

Hon. Vincent P. Zurzolo

1 Archway Broadway Loan SPE, LLC, a Delaware limited liability company, successor in
2 interest to Archway Real Estate Income Fund I REIT, LLC (“Archway”), objects to the Notice of
3 Supplement and Supplement to Application of Individual Debtors and Debtors-in-Possession to
4 Expand Scope of Employment Application of Saul Ewing LLP (“Applicant”) as General
5 Bankruptcy Counsel (“Application”) (Dkt. 285).

6 **The Application**

7 The Application seeks permission under § 327(a) of the Bankruptcy Code to expand the
8 Applicant’s previously-approved employment as counsel to the Individual Debtors as debtors-in-
9 possession. *See Application at 1–5.*

10 **Applicable Legal Standards**

11 Section 327(a) of the Bankruptcy Code provides, in pertinent part, that “the trustee, with
12 the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or
13 other professional persons, that do not hold or represent an interest adverse to the estate, and that
14 are disinterested persons, to represent or assist the trustee in carrying out the trustee's duties under
15 this title.” “The term ‘disinterested person’ means a person that—(A) is not a creditor, an equity
16 security holder, or an insider; (B) is not and was not, within 2 years before the date of the filing of
17 the petition, a director, officer, or employee of the debtor; and (C) does not have an interest
18 materially adverse to the interest of the estate or of any class of creditors or equity security
19 holders, by reason of any direct or indirect relationship to, connection with, or interest in, the
20 debtor, or for any other reason.” 11 U.S.C.A. § 101(14). An actual or potential conflict of interest
21 may constitute grounds for disqualification of the applicant from employment under § 327(a). *See*
22 *In re AFI Holding, Inc.*, 530 F.3d 832, 852 (9th Cir. 2008) (citation omitted).

23 **The Conflict**

24 The Application seeks to expand Applicant’s employment to include concurrent
25 representation of, not just the Individual Debtor Defendants (Mr. and Ms. Halevy), but also
26 Ms. Halevy’s wholly-owned non-debtor limited liability company, 341 South Cannon LLC
27 (“South Cannon LLC”). The Application states that it seeks to represent South Cannon LLC to
28 avoid a default and that the entity lacks independent funds to defend itself and judgment against

1 this entity would result in a loss to Ms. Halevy's estate. *See Application at 2:11–15.* Indeed, the
2 Applicant has already filed a Rule 12(b)(6) motion on behalf of the Halevys and South Cannon
3 LLC. *See 2:24-ap-01241-VZ, Dkt. 9 (“Motion to Dismiss”).*

4 The problem is that South Cannon LLC is the alleged recipient of Ms. Halevy's prepetition
5 fraudulent transfer of the 341 South Canon Drive, Beverly Hills CA 90212 property (“Canon
6 Drive Property”). *See Archway's Adversary Complaint (“Complaint”), 2:24-ap-01241-VZ, Adv.*
7 Dkt. 1 at ¶¶ 6, 23, 26–31. And as alleged Mr. Halevy is the manager of South Cannon LLC and the
8 one who signed the deed of trust, hypothecating the Canon Drive Property after Ms. Halevy
9 transferred it to South Cannon LLC. *See Complaint Exh. 11 at 314.*

10 More specifically, in its Complaint, Archway alleges that Ms. Halevy transferred the
11 Canon Drive Property to South Cannon LLC, an insider of hers, as a “gift” and as part of a scheme
12 to defraud Ms. Halevy's creditors. *See Complaint at ¶¶ 64–77.* Archway alleges that Mr. Halevy
13 was involved in another transfer, which entailed his execution of a deed of trust whereby Mr. and
14 Mrs. Halevy were able to siphon \$1.3 million in equity out of the Canon Drive Property. *See*
15 Complaint at ¶ 30; Exh. 314. Archway seeks a judgment against both Ms. Halevy and South
16 Cannon LLC to avoid the transfer, enjoin further transfers of assets or proceeds, impress an
17 equitable lien on proceeds of the transfer, and/or for damages against both Ms. Halevy and South
18 Cannon LLC. *See Complaint at 24:18–27.*

19 Representation of both the alleged recipient of a fraudulent transfer (South Cannon LLC)
20 and the debtors-in-possession who made the alleged transferors (Ms. Halevy and Mr. Halevy)
21 creates a conflict for the Applicant. As debtors-in-possession, the Halevys owe fiduciary duties to
22 their respective bankruptcy estates, as does the Applicant as counsel to the Halevys. *See In re*
23 *McConville*, 110 F.3d 47, 50 (9th Cir. 1997) (citation omitted); *In re Woodson*, 839 F.2d 610, 614
24 n. 5 (9th Cir. 1988) (citations omitted); *In re Perez*, 30 F.3d 1209, 1219 (9th Cir. 1994).

25 These duties are brought into conflict in the *Archway v. Halevy, et al.* adversary
26 proceeding. The Halevys, as debtors in possession, are fiduciaries to their respective estates to
27 maximize creditor recoveries. *See In re Feiler*, 218 F.3d 948, 952 (9th Cir. 2000) (citation
28 omitted). By contrast, the interests of the Halevys and South Cannon LLC, as defendants in the

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1 *Archway v. Halevy, et al.* adversary proceeding, are just the opposite—to prevent estate creditor
2 Archway's recoveries. In the Motion to Dismiss, the Halevys and South Cannon LLC seek to
3 prevent Archway from avoiding the alleged fraudulent transfers orchestrated by the Halevys,
4 which resulted in the prepetition transfer of a multimillion-dollar real property to a non-debtor
5 entity, South Cannon LLC.

6 **Conclusion**

7 Under these circumstances, an actual conflict of interests exists, which negates Applicant's
8 disinterestedness and creates a materially adverse interest. Accordingly, under § 327(a), the
9 Applicant should not be permitted to concurrently represent both the Halevys as debtors in
10 possession and defendants *and* South Cannon LLC as alleged transferee of a fraudulent transfer
11 that could be recovered for the benefit of an estate creditor.

12 DATED: November 20, 2024

FRANDZEL ROBINS BLOOM & CSATO, L.C.

13 By: /s/ Gerrick M. Warrington

14 GERRICK M. WARRINGTON

15 Attorneys for Secured Creditor

16 ARCHWAY BROADWAY LOAN SPE, LLC

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 1000 Wilshire Boulevard, Nineteenth Floor, Los Angeles, CA 90017-2427.

A true and correct copy of the foregoing document entitled (*specify*): OBJECTION BY ARCHWAY BROADWAY LOAN SPE, LLC TO SUPPLEMENT TO APPLICATION OF INDIVIDUAL DEBTORS AND DEBTORS-IN-POSSESSION TO EXPAND SCOPE OF EMPLOYMENT APPLICATION OF SAUL EWING LLP AS GENERAL BANKRUPTCY COUNSEL will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) November 20, 2024 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Counsel to Party in Interest: Scott R Albrecht salbrecht@gsaattorneys.com, jackie.nguyen@sgsattorneys.com
- Counsel to KDM: Tanya Behnam tbehnam@polsinelli.com, tanyabehnam@gmail.com;ccripe@polsinelli.com;ladocketing@polsinelli.com
- Counsel to Party in Interest: Jacquelyn H Choi jacquelyn.choi@rimonlaw.com, docketingsupport@rimonlaw.com
- Counsel to Individual Debtors: Carol Chow Carol.Chow@saul.com, easter.santamaria@saul.com
- Counsel to Party in Interest: Robert F Conte robert.conte@usdoj.gov, caseview.ecf@usdoj.gov;usacac.tax@usdoj.gov
- Counsel to Individual Debtors: Ryan Coy ryan.coy@saul.com, hannah.richmond@saul.com
- Counsel to Party in Interest: Christopher Cramer secured@becket-lee.com
- Counsel to Individual Debtors: Turner Falk turner.falk@saul.com, tnfalk@recap.email
- Counsel to Archway: Michael G Fletcher mfletcher@frandzel.com, sking@frandzel.com
- Counsel to Party in Interest: Todd S. Garan ch11ecf@alridgepite.com, TSG@ecf.inforuptcy.com;tgaran@alridgepite.com
- Counsel to Party in Interest: Richard Girgado rgirgado@counsel.lacounty.gov
- Counsel to Party in Interest: Jacqueline L James jjames@hrhlaw.com
- Trial Counsel to U.S. Trustee: Kelly L Morrison kelly.l.morrison@usdoj.gov
- Counsel to Party in Interest: Avi Edward Muhtar amuhtar@crownandstonelaw.com
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- Counsel to Individual Debtors: Zev Shechtman Zev.Shechtman@saul.com, zschechtman@ecf.inforuptcy.com;hannah.richmond@saul.com
- Counsel to Corporate Debtors: Derrick Talerico dtalerico@wztslaw.com, maraki@wztslaw.com,sfritz@wztslaw.com,admin@wztslaw.com
- United States Trustee (LA) ustpregion16.la.ecf@usdoj.gov
- Counsel to Archway: Gerrick Warrington gwarrington@frandzel.com, achase@frandzel.com
- Counsel to Party in Interest: Jennifer C Wong bknotice@mccarthyholthus.com, jwong@ecf.courtdrive.com

Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL:

On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) November 20, 2024, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Hon. Vincent Zurzolo (**Overnight Mail; Early Delivery**)

Edward R. Roybal Federal Building and Courthouse
255 E. Temple Street
Bin outside of Suite 1368
Los Angeles, CA 90012

Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

November 20, 2024	Annette Chase	/s/ Annette Chase
Date	<i>Printed Name</i>	<i>Signature</i>